

(4) That the entity and/or its members have the right to receive dividends, profits and regular and liquidating distributions from the business in proportion to its interest in the total equity of the applicant or licensee.

NOTE TO PARAGRAPH (H): Voting control does not always assure *de facto* control, such as, for example, when the voting stock of the control group is widely dispersed (see, e.g., § 24.720(e)(2)(iii)).

(i) *Affiliate*. Determinations regarding whether an individual or entity will be considered an *affiliate* of:

(1) An applicant or

(2) A person holding an attributable interest in an applicant under paragraph (b)(2) will be made pursuant to the general affiliation rules set forth in § 24.710(l).

[59 FR 44071, Aug. 26, 1994, as amended at 62 FR 27511, May 20, 1997]

EDITORIAL NOTE: At 62 FR 27511, May 20, 1997, § 24.320(e) was revised to read as set forth in the text.

Subpart G—Interim Application, Licensing and Processing Rules for Narrowband PCS

SOURCE: 59 FR 26749, May 24, 1994, unless otherwise noted.

§ 24.403 Authorization required.

No person shall use or operate any device for the transmission of energy or communications by radio in the services authorized by this part except as provided in this part.

§ 24.404 Eligibility.

(a) *General*. Authorizations will be granted upon proper application if:

(1) The applicant is qualified under the applicable laws and the regulations, policies and decisions issued under the laws, including §§ 24.101 and 24.12;

(2) There are frequencies available to provide satisfactory service; and

(3) The public interest, convenience or necessity would be served by a grant.

(b) *Alien ownership*. A narrowband PCS authorization to provide Commercial Mobile Radio Service may not be granted to or held by:

(1) Any alien or the representative of any alien.

(2) Any corporation organized under the laws of any foreign government.

(3) Any corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or any corporation organized under the laws of a foreign country.

(4) Any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or revocation of such license. A Narrowband PCS authorization to provide Private Mobile Radio Service may not be granted to or held by a foreign government or a representative thereof.

[59 FR 26749, May 24, 1994, as amended at 61 FR 55581, Oct. 28, 1996]

§ 24.405 Formal and informal applications.

(a) Except for an authorization under any of the conditions stated in section 308(a) of the Communications Act of 1934 (47 U.S.C. 308(a)), the Commission may grant only upon written application received by it, the following authorization: Station licenses; modifications of licenses; renewals of licenses; transfers and assignments of station licenses, or any right thereunder.

(b) Except as may be otherwise permitted by this part, a separate written application shall be filed for each instrument of authorization requested. Applications may be:

(1) “Formal applications” where the Commission has prescribed in this Part a standard form; or

(2) “Informal applications” (normally in letter form) where the Commission has not prescribed a standard form.

(c) An informal application will be accepted for filing only if:

(1) A standard form is not prescribed or clearly applicable to the authorization requested;